

**** NOT FOR PRINTED PUBLICATION ****

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

WAYNE M. LIETZKE

§

VS.

§

CIVIL ACTION NO. 9:19cv237

GIB LEWIS UNIT

§

**ORDER OVERRULING OBJECTIONS AND ACCEPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Wayne M. Lietzke, an inmate at the Lewis Unit, proceeding *pro se*, brought the above-styled lawsuit against the Gib Lewis Unit.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends this action be dismissed for failure to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record and pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

Most of Plaintiff's statements are inappropriate. After careful consideration, the court concludes that all of the objections are without merit. For the reasons set forth in the Report, plaintiff's complaint fails to state a claim upon which relief may be granted. Plaintiff's complaint is barred by the Eleventh Amendment. Further, plaintiff did not properly exhaust administrative

remedies by pursuing his claims in a procedurally correct manner through all steps of the available grievance procedure. Plaintiff's failure to pursue the available administrative grievance procedures through all steps to conclusion in a procedurally correct manner precludes him from filing this action. *See Johnson v. Johnson*, 385 F.3d 503, 516-17 (5th Cir. 2004); *Wright v. Hollingsworth*, 260 F.3d 357, 358 (5th Cir. 2001).

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ACCEPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

So ORDERED and SIGNED, Aug 15, 2020.

A handwritten signature in black ink, appearing to read "Ron Clark", written over a horizontal line.

Ron Clark
Senior Judge